IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6608 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MAULIK SURESHCHANDRA SHAH THRO'FATHER SURESHCHANDRA SHAH
Versus
GUJARAT UNIVERSITY

Appearance:
MR SHALIN MEHTA for Petitioners
MR MR MENGDE for Respondent -University
MS MANISHA LAVKUMAR, AGP, for Respondent No. 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 27/07/2000

ORAL JUDGEMENT

1. This matter is not on the Board but the papers of the same have been sent along with the special civil application No.5123 of 1998 and cognate matters. As Shri Shalin Mehta has put appearance for the petitioners, Shri Mengde appeared for the respondent-University and Ms. Manisha Lavkumar, AGP, appeared for respondent No.3, the matter is taken up for hearing.

2. In this matter, the petitioners through their guardians are praying for declaring the provision contained in para-4(B) of the information booklet, i.e. only those students who have passed the H.S.C. examination with lower level English subject and who want to secure admission in English medium colleges must secure minimum 60 marks in English as irrational, arbitrary, unreasonable and unjustified and violative or Articles 14 and 21 of the Constitution.

3. The matter pertains to admission in the academic year 1998 and in this matter the Court has not protected the petitioners by grant of any interim relief. This matter was admitted and was ordered to be heard with special civil application No.5123 of 1998. So by this time all the petitioners would have taken the admission to colleges other than English medium colleges and would have now come in the final year of the three years degree course. This court asked the counsel for the petitioners whether the petitioners would like to go now for admission in the first year of three years degree course in English medium colleges, he is unable to make any statement. Otherwise also, these petitioners will not now at this stage prefer to go to the first year of the three years degree course after completing two years in the Colleges other than the English medium colleges as it will result in lost of two years of their studies. Now only the academic question remains to be decided in this matter as even if any decision is given in favour of the petitioners, they will not be benefitted by the same. At the most they may claim for damages for this deprival of admission to them in English medium colleges for which they have to establish to the satisfaction of the Court what damage actually they suffered. Learned counsel for the petitioners on being asked by the Court has failed to show that by not giving admission to the petitioners in English medium colleges, what damage has been suffered by the petitioners. Be that as it may. For damages, appropriate remedy is only to file a civil suit. The civil court is also competent to go on and decide the validity of this policy taken by the respondent re: admission to be given in English medium colleges of the Ahmedabad city. Except declaration, this court cannot grant any damages in these proceedings. This is another ground on which it is not necessary to decide this matter on merits. By passing of time, this petition has become infructuous. It is true that such matters are to be given priority in hearing. In fact, the matters relating to admission to educational institutions are to be taken at top priority by the Courts and all endeavour has to be made to dispose of the same within one or two months but

in the Court though computerised programme is there, this system is not so effective. However, it is a matter to be taken care of by the registry in future. By delay in deciding of such matters, manifold difficulties may be caused to the students. Be that as it may.

4. By passing of time, in substance, nothing now remains in this petition and the same is dismissed. Rule discharged. However, the dismissal of this petition will not come in the way of the petitioners, if they so desire, to file the suit for damages in civil court and the civil court is free to go on the question of validity of the policy taken by the respondents.

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